IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 363 of 2007

Date of decision: 5.4.2007

Divya Prakash ..Petitioner

Versus

BSNL and others ….Respondents

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge

Whether approved for reporting?

For the Petitioner: Mr. Surinder Sharma, Advocate

For Respondents : Mr. Ashok Sharma, Advocate.

Per Deepak Gupta, J (Oral)

Heard learned counsel for the parties. The main grouse of the petitioner is that he should be retained at Sundernagar and should not be posted at Kullu.

The admitted facts of the case are that the petitioner was selected under the sports quota as a Regular Mazdur in SSA, Kullu on 3.10.2003. He worked at Kullu as Regular Mazdoor upto 31st January, 2005. On 1st February, 2005 he was deputed to CTTC, Sundernagar, District Mandi. While on deputation, he applied for the post of Telecom Mechanic at SSA, Kullu. The petitioner was selected to undergo induction training for telecom mechanic from SSA, Kullu. The training was completed on 9th March, 2007. On 8th March, 2007 an order was passed whereby the petitioner after completion of the induction training was posted in CTTC Sundernagar. On 9th March, 2007 another order was passed and as per note below Sr.No.15 it was mentioned that as per directions dated 8th March, 2007 issued by Chief General Manager, Shimla, the

petitioner is appointed against the post of Phone Mechanic in CTTC, Sundernagar. Thereafter on 13th March, 2007 the impugned order was passed whereby the petitioner has been relieved from CTTC, Sundernagar, and directed to join at SSA, Kullu.

Mr. Surinder Sharma, learned counsel for the petitioner submits that the petitioner was recruited under the sports quota and as per para 5 of the decision of the respondent No.1 (BSNL) dated 24th December, 2003 the transfer of persons belonging to sports quota should be made after consultation with the sports-cell of the circle. In this letter it is also mentioned that the sports persons should be posted only at the places where infrastructure facilities are available. Mr. Surinder Sharma also contends that since he joined the post on 9th March, 2007 he should not have been relieved after a short span of 4 days. On the other hand, the stand of the respondents as put forward by Sh. Ashok Sharma, learned counsel appearing for the respondents is that the petitioner belongs to SSA, Kullu and as per Rules framed by the respondent the person belonging to a particular SSA must work in the same SSA and within the said region. It has been pointed out in the reply that 23 persons who are senior to the petitioner had applied for their transfers from Kullu to Mandi Circle and in case the petitioner is adjusted the rights of these 23 persons shall be effected.

After hearing the learned counsel for the parties, we are of the view that there is no merit in the same. As stated above, the petitioner joined at Kullu and worked there till 31st January, 2005. He was thereafter posted to Sundernagar and has remained there for more than two years. The respondents in their reply have clearly stated that the order dated 8th March, 2007 was passed by inadvertence and is not in consonance with the Rules. In our

opinion, the transfer of the petitioner has been made as per administrative exigencies and calls for no interference. The petitioner is, therefore, directed to join at Kullu. However, the petitioner after joining at Kullu shall be at liberty to make a representation to the respondent that he may be posted to Mandi or any other place where adequate sports facilities for cricket are available. The respondent in consultation with the sports-cell shall take a decision and pass a reasoned order. The petitioner is directed to make a representation to the Chief General Manager, BSNL, Shimla within two weeks from today and the Chief General Manager, (respondent No.2) is directed to take a decision on the same within four weeks thereafter and he shall pass a short but reasoned order on the representation of the petitioner. Petition disposed of.

(Deepak Gupta), J.

April 5, 2007 (Surinder Singh), J.
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